



The State of New Hampshire
Insurance Department
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Roger A. Sevigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

BULLETIN

Docket No.: INS. 08-033-AB

TO: All New Hampshire Licensed Health Insurance Companies, Health Maintenance Organizations and Fraternal Benefit Societies

FROM: Roger Sevigny

A handwritten signature in black ink, appearing to read "RAS", positioned above the "FROM:" line.

DATE: May 28, 2008

RE: Legal Requirements for Filing Policy Forms and Endorsements under RSA 415:1

This bulletin is intended to clarify the legal requirements for filing policy forms and endorsements under RSA 415:1. This statute requires that carriers file policy forms, riders and endorsements with the Commissioner before issuing or delivering them in New Hampshire. The purpose of this statute is to ensure that contracts of insurance issued and delivered in New Hampshire comply with New Hampshire law.

Several previous bulletins regarding legislative changes affecting coverage have placed carriers on notice that policies that were approved, but which no longer comply with New Hampshire law, must be brought into compliance with the law no later than at renewal. In certain instances, such as the recent adoption of the civil union law, changes in the law have been deemed to apply as of the effective date of law although policy endorsements have not been required until renewal.

The submission and approval of a policy or policy form filing confers a right on the carrier to issue or deliver that policy form in New Hampshire for only so long as the law under which the approval was granted remains in effect. When there is a change in the law that affects the benefits, coverage or eligibility under a policy of insurance, the policy of insurance or policy forms that are impacted by that change must be amended to conform with the new law. In the event a carrier does not submit an endorsement or policy form change to conform to a change in law, the policy may, in certain circumstances, be deemed by operation of law to incorporate such changes.

Significantly, the law creating a right to guaranteed renewal of a policy of insurance, RSA 420-G:6, recognizes that the policy may be amended or revised to conform with changes in the law. Pursuant to RSA 420-G:6, VIII., a carrier may, “at the time of coverage renewal, modify the health coverage it offers to large employers, small employers, and individuals, provided that such modification is in accordance with state law and applied uniformly among all small employers and/or individuals with such health coverage.” In addition, RSA 415:5 prohibits a carrier from issuing or delivering a policy of accident and sickness insurance that does not conform to the relevant provisions of RSA 420-G. See, RSA 415:5 (I) (10)

In reviewing and approving policy form filings under RSA 415:1, the provisions of New Hampshire’s insurance law will be applied to all in-force policies of insurance. Upon renewal of a policy, the policy forms issued and delivered must conform to all applicable provisions of the existing New Hampshire insurance law. To the extent that the underlying policy is not in compliance with New Hampshire law, a carrier shall be required to submit an endorsement or policy form amendment to bring the policy into compliance with New Hampshire law. These endorsements or policy form amendments shall be submitted for review under RSA 415:1, and carriers shall issue these amendments or endorsements on renewal to ensure that the terms of the in-force policy complies with New Hampshire law. On renewal, a carrier shall administer an existing policy of insurance to comply with New Hampshire insurance law regardless of whether the carrier has submitted the endorsements or policy forms required to bring the policy into compliance with New Hampshire law. In the event that the provisions of the policy become difficult to understand due to the volume of endorsements or policy form amendments, the department may request that a carrier submit a revised policy form that meets the existing requirements of the law.

With respect to a policy or policy form that received approval under prior law and cannot be brought into compliance through the use of an endorsement or an amendment to the policy, a carrier shall notify the department and shall at the direction of the department discontinue the use of that policy on renewal.